

**MINUTES**  
**Town of Crested Butte**  
**Regular Town Council Meeting**  
**Monday, June 4, 2018**  
**Council Chambers, Crested Butte Town Hall**

Mayor Schmidt called the meeting to order at 7:00PM.

Council Members Present: Will Dujardin, Kent Cowherd, Chris Haver, Jackson Petito, Laura Mitchell, and Paul Merck

Staff Present: Town Manager Dara MacDonald, Town Attorney John Sullivan, Community Development Director Michael Yerman, and Public Works Director Rodney Due

Town Clerk Lynelle Stanford, Finance Director Rob Zillioux, Parks and Recreation Director Janna Hansen, and Chief Marshal Mike Reily (for part of the meeting)

Schmidt reviewed the topics covered during the Work Session.

**APPROVAL OF AGENDA**

Merck moved and Mitchell seconded a motion to approve the agenda. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**CONSENT AGENDA**

- 1) May 21, 2018 Regular Town Council Meeting Minutes.**
- 2) Bridges of the Butte 24-Hour Townie Tour Special Event Application for June 23-24, 2018.**
- 3) Crested Butte Bike Week Special Event Application for June 21-24, 2018 and Special Event Liquor Permits for June 22-24, 2018.**
- 4) Tri-State Corvair Display Special Event Application for a Car Show on June 9, 2018.**
- 5) Alpenglöw Special Event Application and Special Event Liquor Permit for Mondays from June 18 - August 13, 2018.**
- 6) Restaurant/Bar Seating on Public Sidewalks for Happy Place LTD DBA Django's Located at 209 Elk Avenue.**
- 7) Appointment of Two Commissioners to the Crested Butte Creative District.**

Merck moved and Dujardin seconded a motion to approve the Consent Agenda. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

### **PROCLAMATION IN HONOR OF DAVE OCHS**

Schmidt explained the reasoning behind proclamations honoring citizens. John Chandler read his letter elaborating upon contributions and accomplishments of Ochs. He thanked Ochs. Schmidt then read the proclamation thanking him on behalf of the citizens of Crested Butte.

### **PUBLIC COMMENT**

David Leinsdorf

- He was stunned, surprised, and disappointed by the discussion at the end of the Brush Creek meeting.
- It was clear the County was asking the Town to engage.
- He suggested the Council endorse Option #4 (mediated discussion as referenced in MacDonald's memo), and they should hold as many public meetings with Mr. Gates between now and the 29<sup>th</sup> of June.
- The County was asking the Town to step up and make the monstrosity happen.
- He proposed an alternative put together by Friends of Brush Creek.
- There were options for the project besides 220 units.

Roland Mason - 501 5<sup>th</sup> St

- He announced that he was running for District 3 County Commissioner.
- He wanted to sit down with Council members concerning issues going on around Town.
- He asked the Council to revisit the situation at Red Lady/135/7<sup>th</sup> Street. There was a line beyond the hill this morning.

Robert McCarter - 1251 Skyland

- He thanked the Council, Mayor, and Town Manager in an effort to do what they thought was right for the Brush Creek Corridor.
- He believed a project could be built that would be compatible.
- He told the Council to continue to be strong in the matter.

### **STAFF UPDATES**

- Schmidt referred to the memo from MacDonald. He brought up the question posed in the memo on policy decisions. The Council decided to include the discussion on the next agenda.
- MacDonald reported on the meeting held by the Forest Service concerning the dry year and wildfires.
- MacDonald received an email from the mine's project manager offering an open house to report on progress and an update on Mt. Emmons.

- Schmidt asked Due about the paving around Town. Due elaborated on the striping of parking lots and on Elk Avenue.
- Hansen mentioned the opening ceremony for softball would be at Pitsker tomorrow.

## **PUBLIC HEARING**

### **1) Ordinance No. 15, Series 2018 - An Ordinance of the Crested Butte Town Council Authorizing the Release of Land Use Conditions and Restrictive Covenants.**

Schmidt confirmed proper public notice had been given. Yerman explained the reason for the ordinance. Petito confirmed Town was not losing a unit. Cowherd wondered if the building would maintain its historical significance. No one from the public wanted to comment.

Merck moved and Haver seconded a motion to approve Ordinance No. 15, Series 2018. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

### **2) Transfer of the Soupcon Hotel and Restaurant Liquor License Located at 127A Elk Avenue from J&A Cuisine Inc to Fatdog LLC.**

Stanford stated nothing had changed from the time the staff report was written and that Staff recommended approval of the transfer. David Wooding, from Soupcon, was present. Stanford confirmed proper public notice was given. There was no one present who wanted to comment.

Mitchell moved and Merck seconded a motion to transfer the Soupcon Hotel and Restaurant Liquor License located at 127A Elk Avenue from J & A Cuisine to Fatdog LLC. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

## **NEW BUSINESS**

### **1) Community Grant Funding Recommendations.**

Zillioux explained that the committee reviewed 17 grant requests for a proposed total of \$45,280. If approved, there would be a budget deficit since 82% of the budget had been spent in the fall. Merck asked if they could transfer funds from the General Fund in order to award the total of \$45,280. Mitchell recognized the requests were worthy. There was a brief discussion on where the funds could come from. Merck didn't think the spring cycle should be lessened because they gave out too much in the fall. Schmidt summarized the options. Haver acknowledged it was hard to say no, and he asked how the algorithm worked. Zillioux reminded the Council of two \$15K requests that were funded last fall. Merck encouraged the Council to consider funding the full amount. Petito was okay with approving the grants as proposed, but moving forward they needed to set two budgets, one for each cycle.

Merck moved and Dujardin seconded a motion to approve the community grant funding recommendations with money from the General Fund. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**2) Appeal by Laura Silva on Behalf of Colorado Jazz Musicians Festival for the Use of Town Park for an Event on September 8 - 9, 2018.**

Silva explained the inception of the non-profit and the concept for the event that was envisioned. She reviewed their cooperation with other entities. She learned the lawn space at The Center for the Arts stage was no longer available for reservations after August 20<sup>th</sup> because of the soccer season. She provided a management plan, which had been turned down by Staff. The options presented by Staff were not viable.

Hansen confirmed the communications with Staff were accurately portrayed by Silva. She explained background on the decision, including that another event had been turned down and concern of precedent set for future years. Hansen acknowledged that weather could provide difficulty in turning the space back to soccer fields. She referred to Town Code that had been cited in her staff report. Hansen explained issues Staff had with the proposed management plan. There was a brief discussion on staffing.

MacDonald asked the Council what their priority was for the space. Petito liked the idea of the festival, and he wanted to help it happen. He didn't know how to address the precedent question. He would love to find a way to make it work. There was a discussion on the requirements for liquor permitting. Silva elaborated upon the vision she wanted to promote as part of the event. Haver supported locally grown events. He wanted to find a way to make the event work. Mitchell liked the idea based on the time. They would have to be comfortable with possible damage to the field. She agreed with Haver that it was unfortunate for the field to not be used for the festival because of striping. Cowherd wanted to stick with the standards and timeframe, and he recommended Big Mine for this year. Dujardin disagreed with Cowherd. He suggested they look at allowing for this year for this event. Schmidt did not want to see an event comparable to the one in Telluride. Silva described their target demographic.

Roger Conn spoke as a representative of the event:

- The event was a Colorado Jazz musicians' festival.
- He described how their festival was unique.
- Recalled grants to the Crested Butte Mountain Theatre and to the first Arts Festival.

Merck thought it was worthy to give the organizers a shot. It was not a major conflict with soccer. They had to look at how it worked the first time. He was happy to grant an application. Schmidt wouldn't want to see 5,000 people trampling on the soccer fields. Roland Mason recommended the Council reconsider the August 20<sup>th</sup> date and make it later. Petito asked for a commitment in turning the field back to its original condition and Silva affirmed. He added they would have to see how it worked out to revisit next year.

Merck moved and Dujardin seconded a motion to approve the appeal by Laura Silva for the Colorado Jazz Musicians Festival for the use of Town Park for an event on September 8 – 9, 2018. A roll call vote was taken with all voting, “Yes,” except Cowherd voted, “No.” **Motion passed.**

### **3) Bid Award for Wildcat Creek Waterline Stabilization Project.**

Due informed the Council that the pipeline carried the main water coming into Town. Ninety feet of the pipeline were now exposed. He was concerned about the pipeline freezing and the pipeline breaking. There were funds in reserve for instances such as this one. He recommended that the Council accept the bid from Geostabilization International (GSI). He described details to the work proposed by GSI. Zillioux explained the mechanics to the budget amendment.

Mitchell moved and Petito seconded a motion to approve the award of a construction contract for the Wildcat Creek Waterline Slope Stabilization Project to GSI at a cost of \$188,164.69 not to exceed \$207,000.00 and authorizing the Town Manager to enter into a contract between the Town of Crested Butte and GSI. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

### **4) Update on the Process and Stages for Fire Restrictions.**

Reily explained that Stage 1 fire restrictions closely mirrored what was already restricted within Town. For public information and consistency, it was best for County and Town to go into Stage 2 at the same time. Stage 2 could have economic impacts on contractors, which was the only real downside. The decision to go into Stage 2 would not be a snap decision. Petito questioned specific limitations listed within Stage 2 restrictions.

Dujardin moved and Mitchell seconded a motion to authorize the Town Manager to adopt Stage 2 Fire Restrictions for Crested Butte when/if Gunnison County goes into State 2 Fire Restrictions in 2018. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

### **5) Introduction of Standard Sales Tax Definitions.**

Zillioux reviewed the background of municipalities adopting the standard sales tax definitions, as defined by the Colorado Municipal League. Town could adopt the definitions that were relevant to what Town did. It would be much easier for businesses that operate in multiple municipalities. He explained the process that he would go through with the Council. He listed municipalities that had adopted. The definitions had to remain tax neutral. The Council supported Zillioux moving forward in the process.

### **6) Ordinance No. 16, Series 2018 - An Ordinance of the Crested Butte Town Council Amending Chapter 16, Article 15 of the Crested Butte Municipal Code to Include New Regulations for the Removal of Trees.**

Schmidt read the title of the ordinance. Hansen provided history on the agenda item. One standard of being a Tree City USA was to have a tree care ordinance. Hansen introduced Sam Pankratz from the Forest Service. She reviewed the process for removing trees. Hansen explained changes being made to the Code per the ordinance. She specified requirements related to replacement trees. She pointed out a new provision relevant to the business zone districts. They expanded to impose more stringent regulations for tree preservation during construction. Schmidt questioned the section that addressed attaching rope and wire to trees related to people who were slack lining. He asked if they wanted to allow slack lining, assuming the person was providing protection for the tree. Pankratz agreed there was potential, and a fatter band would not damage an aspen tree. There was a discussion on the prohibition of slack lines and enforcement of the ordinance.

Mitchell moved and Dujardin seconded a motion to set Ordinance No. 16, Series 2018 for public hearing at the June 18<sup>th</sup>, 2018 meeting. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**7) Ordinance No. 18, Series 2018 - An Ordinance of the Crested Butte Town Council Approving the Lease of a Portion of the Property at 716 Elk Avenue to High Country Conservation Advocates.**

Schmidt read the title of the ordinance. There was no one present who wanted to comment and no further discussion amongst the Council.

Mitchell moved and Petito seconded a motion to set Ordinance No. 18, Series 2018 for public hearing on June 18<sup>th</sup>, 2018. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**8) Ordinance No. 19, Series 2018 - An Ordinance Amending Chapter 6, Article 4 of the Crested Butte Municipal Code to Include Regulations for Merchandise Trucks.**

Schmidt read the title of the ordinance. Stanford reviewed changes to the Code that would be enacted by the ordinance. Schmidt questioned the limit of six vendors at the Four Way. He did not like the idea of a merchandise truck at the Four Way. Haver did not have any problem with the merchandise truck on private property, and he liked the 10 foot set back. Haver identified that mobile vendors were competing with business rentals, and allowing mobile vending on public property was one more leg up with free to almost free rent. He would strike the section permitting operation at the Four Way and Big Mine Ice Arena. Dujardin disagreed with Haver. He suggested a condition that if the snow was a certain height, they not be allowed to vend, or allowing mobile vending starting on May 1<sup>st</sup>, with the contingency of snow depth. Schmidt agreed with Haver on eliminating the truck on public property. There was a discussion on truck vending at the Four Way contrasted with vending on private property. Cowherd specified that other businesses paid for parking.

Mitchell moved and Merck seconded a motion to set Ordinance No. 19, Series 2018 for public hearing at the meeting on June 18<sup>th</sup>. A roll call vote was taken with Merck, Mitchell, Petito, and Dujardin voting “Yes,” and Schmidt, Haver, and Cowherd voting, “No.” **Motion passed.**

## **LEGAL MATTERS**

Sullivan reported the plaintiffs in The Heights case filed reply to Town’s counter claim on Friday. Pre-trial deadlines would start to run. Both parties would file disclosures. Judge Patrick set a case management conference for July 6<sup>th</sup>.

## **COUNCIL REPORTS AND COMMITTEE UPDATES**

Laura Mitchell

- Attended a Mountain Express meeting. RTA approached them about purchasing an industrial lot in Riverland. There could be residential with the commercial on the lot. The second bus was being painted. They increased the pay for painting the busses.
- Dujardin added that they approved truck deliveries in the turnaround at Mountaineer Square. Breckenridge was adopting electric busses, and they would monitor.

Jackson Petito

- Attended Housing Foundation meeting. Housing solutions in Gunnison help in Crested Butte and vice versa. They talked about their role concerning the affordable housing tax on the ballot.

Will Dujardin

- Attended a Mountain Express meeting.
- Attended Upper Gunnison River Water Conservancy District meeting in Lake City. The area was in a drought. The Gunnison Basin was a bright spot in the region. There would be a pump house going up in Mt. Crested Butte.
- Went to a meeting where they were updated on the Energy Action Plan. Residential electricity intensity in Town was twice the average in the area.
- Vail had a program that put deed restrictions on housing. People would sell the deed restriction to the town to keep the house in stock in perpetuity. It could be useful for the Housing Foundation to consider.

Kent Cowherd

- Attended Creative District meeting. There were two new commissioners appointed on the Consent Agenda. They had on their radar a location for a fairy house walk, and they were having a hard time finding a place. They were looking at an area above Red Lady Estates and would be coming to the Council for permission.

- Attended DOLA Region 10 meeting. They talked about the building they were renovating, and a discussion came up on the phone line. Everyone was gearing up for the summer.
- Attended Brush Creek meeting on Friday. It did not go as anticipated.

Jim Schmidt

- The Housing Authority had a conference call on a proposed LIHTC project. The company out of Oklahoma was buying a piece of land in Gunnison. The conference was regarding negotiation with the company.
- Went to the bill signing at the I Bar.
- Attended the Forest Service presentation on wildfires.
- Went to the Brush Creek meeting last Friday.

### **OTHER BUSINESS TO COME BEFORE THE COUNCIL**

Schmidt reviewed what occurred at the Brush Creek public hearing last week. John Messner stated that the Town of Crested Butte should negotiate with Gatesco. Messner also suggested a deal that the Town could provide water and sewer service, and Gatesco would reduce density. MacDonald provided a memo explaining the next steps in the sketch plan process at Brush Creek. Haver recapped what he understood of the process. He would like to ask the County to provide direction on how the Town should follow their LUR process. Cowherd thought it was weird the County questioned Town on not providing a subsidy when the developer had never asked for one. Cowherd said the small changes were not enough to address what Town was pointing out, which were the density and scale of the project. Schmidt would suggest considering a different developer. MacDonald recognized the process was clearly defined in the LUR, and Messner went off the intended path as far as the process was concerned. It felt like Town was being attacked in a formal land use hearing. She identified that Town had no obligation to do anything. However, the Council was not in a quasi-judicial role, so the options were open. Schmidt liked the idea of opening a planning process, but he recognized there was a timeline before June 29<sup>th</sup>. Yerman was concerned about how it would affect a process of discussion in August on Block 76. Haver preferred item number four referenced in MacDonald's memo, which was a mediated discussion. Dujardin said they were tearing apart their whole process. He favored number one, do nothing further at this point, or number five, acquire the land. Mitchell suggested number four or number one. Schmidt acknowledged the topic of Brush Creek was not on the published agenda.

John O'Neal, representing Gatesco, was at the meeting. They were as surprised as the Town was. Talking was a good thing. A public process did not excite Gatesco. Haver thought it was important for discussions to be held in the public realm. Schmidt agreed it was inevitable that it was a public process. Petito agreed the public needed to be involved. MacDonald asked O'Neal if Gatesco would be open to participating in a public process. O'Neal reiterated they would talk. Cowherd said it was not substantial enough to talk about unless they talked about density. MacDonald suggested they consider a special meeting. Petito said it made sense if their decision hinged on Town's decision. Mitchell pointed out there were other stakeholders. Merck said Town could provide



water, which could reduce density. Schmidt stated that the Commissioners at the meeting decided to bust the process. The Council directed Sullivan to contact the County Attorney to find out where it fit in the land use process, and MacDonald would look at the agenda for the next meeting.

Cowherd brought forth a number of topics:

- He suggested clarifying the Town's position with ICElab contrary to the thought that Town declined to fund and did not want to participate with other entities. He suggested they clarify at the upcoming meeting with the other entities.
- Cowherd identified the lack of trash and recycling available for visitors. He thought each municipality should have a trash and recycling station.
- He had a hard time keeping up with the happenings in the County. He suggested other agendas be included in their packets. The Council asked that agendas for the County Commissioners, City of Gunnison, and Mt. Crested Butte be added to the meeting packets.
- He mentioned the letter from Nancy Essex regarding John Murphy. Cowherd said they had to acknowledge that a mistake happened. They should publicly apologize. Mitchell agreed. MacDonald would draft a letter for the Mayor to sign.

Schmidt revisited the trash and recycling idea. He recalled that the one that had been located at the Four Way was abused. Merck pointed out there was a transfer station located in Riverland. Mitchell was willing to try for the summer. Staff would bring back numbers from Waste Management for the next meeting.

#### **DISCUSSION OF SCHEDULING FUTURE WORK SESSION TOPICS AND COUNCIL MEETING SCHEDULE**

- Monday, June 18, 2018 - 7:00PM Regular Council
- Monday, July 2, 2018 - 7:00PM Regular Council
- Monday, July 16, 2018 - 7:00PM Regular Council

#### **EXECUTIVE SESSION**

Schmidt read the reason for the Executive Session: for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. Section 24-6-402(4)(e) regarding Slate River Annexation.

Merck moved and Mitchell seconded a motion to go into Executive Session. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

The Council went into Executive Session at 10:55PM. The Council returned to open meeting at 11:32PM. Mayor Schmidt made the required announcement before returning to open meeting.

**ADJOURNMENT**

Mayor Schmidt adjourned the meeting at 11:33PM.

  
James A. Schmidt, Mayor

  
Lynelle Stanford, Town Clerk (SEAL)

